

IMPERIUM PATENT WORKS
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Attorneys for Plaintiff and Counterdefendant
ZINUS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ZINUS, INC., a California corporation,

Plaintiff,
v.

SIMMONS BEDDING COMPANY, a
Delaware corporation, and DREAMWELL,
LTD., a limited liability company of
Nevada,

Defendants.

AND RELATED COUNTERCLAIMS

Case No. 07-CV-03012 PVT

**[PROPOSED] ORDER GRANTING
ZINUS, INC.'S MOTION FOR
SUMMARY JUDGMENT OF
NON-INFRINGEMENT DUE TO
NO DIRECT INFRINGEMENT**

The Honorable Patricia V. Trumbull

After having considered the motion, the papers filed in support of and in opposition to the motion, and having heard the arguments of the parties' counsel, the Court finds that Zinus' supplying and sale of "shipped units" of the "Mattress-in-a-Box" product to Wal-Mart, as those terms are defined in Zinus' Memorandum of Points and Authorities, does not constitute infringement of any claim of U.S. Patent No. Re. 36,142.

IT IS HEREBY ORDERED that the Motion for Summary Judgment of Non-Infringement brought by plaintiff and counterdefendant Zinus, Inc. is GRANTED.

Dated: _____, 2008

The Honorable Patricia V. Trumbull
United States Magistrate Judge

[PROPOSED] ORDER GRANTING ZINUS,
INC.'S MOTION FOR SUMMARY
JUDGMENT OF NON-INFRINGEMENT

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